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BILL NO. R-76-10-05

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RESOLUTION NO. R-

82-76

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A RESOLUTION authorizing the issuance and sale of \$2,900,000
\$ Economic Development Revenue Bonds
(Hanover Columbus, Inc. (K-Mart Project) of
the City of Fort Wayne, Indiana, for the purpose
of defraying the cost of acquiring facilities,
authorizing the execution of the necessary instru-
ments, providing for the pledge of revenues for
the payment of said bonds, authorizing a mortgage
and indenture of trust appropriate for the protection
and disposition of such revenues, and authorizing
the sale of said bonds.

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WHEREAS, the City of Fort Wayne, Indiana (hereinafter
called the "City") is a municipal corporation and political
subdivision of the State of Indiana and by virtue of IC 1971,
18-6-4.5-1 through 18-6-4.5-29, inclusive, as amended (herein-
after called the "Act" is authorized and empower to acquire
economic development facilities as those words are defined
in the Act and to make such facilities available to others to
overcome insufficient employment opportunities and insufficient
diversification of industry in and near the City to promote the
general economic welfare of the area in and near the City and
to issue its economic development revenue bonds to pay all
costs of purchase or construction of such economic development
facilities including engineering, legal fees, and all other
expenses related thereto during construction, including the
costs of issuing the bonds and to secure said bonds by a trust
indenture creating a security interest in such economic develop-
ment facilities; and

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WHEREAS, Hanover Columbus, Inc. (K-Mart Project)
(the "Corporation") is a corporation duly organized under the
laws of the State of Illinois; and

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WHEREAS, the Corporation has agreed to construct
economic development facilities and thereby create new employment
opportunities and provide diversification of industry in and
near the area of the City and to pay the principal of and
interest and premium on the economic development revenue bonds
hereinafter authorized; and

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WHEREAS, the Common Council of the City (the "Common
Council") has heretofore by Special Ordinance No. S-19-72 and
pursuant to IC 1971, 18-6-4.5-1 through 18-6-4.5-29, inclusive,
created the Fort Wayne Economic Development Commission which
by virtue of the Act has become the Fort Wayne Economic
Development Commission (the "Commission") and the members of
the Commission have been duly appointed and qualified pursuant
to law and the Commission has organized and undertaken the duties
imposed upon it by the Act and has found by written resolution
that because of existing insufficient employment opportunities
and insufficient diversification of industry, the economic

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APPROVED AS TO FORM
AND LEGALITY,

[Signature]

1 the economic welfare of the City would be benefited by the
2 financing of the construction of economic development facilities
3 by the Corporation; and

4 WHEREAS, the Commission has by such resolution approved
5 a Report estimating the public services which would be made
6 necessary or desirable, the expense thereof, the number of jobs,
7 economic development facilities and the cost of construction
8 of the economic development facilities and has submitted such
9 report to the City Plan Commission and the Fort Wayne Community
10 Schools; and

11 WHEREAS, said Plan Commission and Fort Wayne Community
12 Schools, upon receiving the report of the Commission, has
13 formulated written comments concerning such estimate and have
14 transmitted those comments to the Commission within the time
15 provided by law; and

16 WHEREAS, after giving notice in accordance with the
17 Act, the Commission held a public hearing on the proposed
18 financing and adopted a resolution finding the proposed financing
19 complies with the Act, approving the financing and approving
20 the form and terms of the economic development revenue bonds
21 proposed to be issued by the City to pay a portion of the cost
22 of such facilities, the Lease Agreement and Indenture, which
23 resolution and other instruments and information pertaining to
24 the proposed financing have been transmitted to the Common
25 Council of the City by the Secretary of the Commission.

26 NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL
27 OF THE CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:

28 SECTION 1. Public Benefits. The Common Council
29 of the City hereby finds and determines that the facilities
30 in connection with the project ("the Project") to be acquired
31 in part with the proceeds of the Economic Development Revenue
32 Bonds (Hanover Columbus, Inc. K-Mart Project) herein
33 authorized are "economic development facilities" as the phrase
34 is used in the Act and that the utilization of the property
35 in the creation and location of the Project is economically
36 sound will increase employment opportunities and increase
37 diversification of industry in and near the City, will improve
38 and promote the economic stability, development and welfare
39 of the area in and near the City and the location of the other
40 new industries in such area.

41 SECTION 2. Findings. The Common Council hereby
42 finds that this resolution (the "Bond Resolution") is of public
43 benefit to the economic welfare of the City, by tending to
44 overcome the deficiencies previously found to exist, to-wit:
45 insufficient employment opportunities and insufficient diversifi-
46 cation of industry and recreational facilities, and that such
47 benefit is greater than the cost of public facilities (as the
48 phrase is defined in the Act), which will be required by the
49 Project.

50 SECTION 3. Authorization of \$2,900,000 Economic
51 Development Revenue Bonds. In order to pay a portion of the
52 costs of acquiring the Project, there are hereby authorized to
53 be issued, sold and delivered the \$2,900,000 aggregate principal
54 amount Economic Development Revenue Bonds Hanover Columbus,
55 Inc. K-Mart Project of the City. It is hereby recognized that

pursuant to the terms of the Lease Agreement, the balance of the proceeds of additional parity bonds (the "Additional Bonds") as identified in the Indenture.

SECTION 4. Definitions. In addition to the words and terms defined in this Bond Resolution, the words and terms used in this Bond Resolution shall have the meanings set forth in the Indenture, the Lease Agreement and unless the context or use indicates another or different meaning or intent and the form of the Bond and the form of the Lease Agreement and Indenture, which forms are before this meeting are hereby incorporated by reference in this Bond Resolution and the Clerk is hereby directed to insert them into the minutes of the common council to keep them on file.

SECTION 5. Terms for the Bond. The total principal amount of Bond that may be issued is hereby expressly limited to \$2,900,000, provided, however, that additional bonds may be issued as hereinafter provided.

The bond shall be subject to redemption prior to maturity upon the terms and as provided in the Indenture.

The bond shall be executed on behalf of the City with the official manual or facsimile signature of the Mayor and attested with the official manual or facsimile signature of the Clerk and shall have impressed or imprinted thereon the corporate seal of the City. The coupons attached to the Bond, if any, shall be executed by the facsimile of the official signatures of the Mayor and Clerk and such facsimile on any Bond or coupons shall have the same force and effect as if manually signed by such officer. The Bond, together with interest thereon, shall be limited obligations of the City payable solely from the revenues and other amounts derived from the Project (except to the extent paid out of moneys attributable to the Bond proceeds or the income from the temporary investment thereof and under certain circumstances, proceeds from insurance and condemnation awards) and shall be a valid claim of the respective holders thereof only against the Bond fund created under the Indenture and other moneys held by the Trustee and of the Project (but in addition shall be secured by a first mortgage lien on the Project), which revenues and other amounts shall be pledged and secured under the Indenture for the equal and ratable payment of the Bond and shall be used for no other purpose than to pay the principal of, premium, if any, and the interest on the Bond, except as may be otherwise expressly authorized in the Indenture. The Bond and the interest thereon shall never constitute a charge against the general credit or taxing power of the City. In case any officer whose signature or facsimile of whose signature shall appear on the bond or coupons shall cease to be such officer before the delivery of such Bond, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery.

SECTION 6. Additional Bonds. The City may authorize the issuance of Additional Bonds upon the terms and conditions provided the same rank as the Bond, but shall bear such date or dates, bear such interest rate or rates, have such maturity dates, redemption dates and redemption premiums, and be issued at such prices as shall be approved in writing by the City and the Company.

SECTION 7. Sale of the Bond. The Mayor and Clerk of the City are hereby authorized and directed to sell the Bond. The Mayor is hereby authorized to execute and the Clerk is hereby authorized to attest, the Underwriting Agreement in the form submitted to this meeting and approved hereby, in the minutes of this Common Council and to certify thereon that the same is the form of such instrument submitted to this Common Council approved hereby, and identified herein as the Underwriting Agreement, and to keep the same on file.

1 SECTION 8. Indenture. In order to secure the payment
2 of the principal of and interest on the Bond, the Mayor and
3 Clerk shall execute, acknowledge and deliver in the name
4 on behalf of the City, a Mortgage and Indenture of Trust,
5 herein identified as and called the Indenture, in the form
6 submitted to this Common Council, which is hereby approved
7 in all respects and the Clerk is hereby directed to insert a
8 copy thereof in the form submitted to this meeting and approved
9 hereby, in the minutes of this Common Council and to certify
10 thereon and the same is the form of Indenture so submitted
11 to this Common Council and approved by this Bond Resolution
12 and identified herein as the Indenture and to keep such Indenture
13 on file. Said Indenture contains provisions authorized and
14 permitted by the Act, and this Bond Resolution shall constitute
15 a part hereof as therein provided and for all purposes of said
16 Indenture, including the provisions thereof relating to amendments
17 and the severability of provisions of the Indenture.
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1 SECTION 9. General. The Mayor and Clerk be and they
2 are each hereby authorized and directed, in the name of and
3 on behalf of the City to execute any and all instruments,
4 perform any and all acts, approve any of them, to be necessary
5 or desirable in order to carry out the purposes of this Bond
6 Resolution (including the preambles hereto), the acquisition
7 of the Project by the Company, the issuance and sale of the
8 Bond and the securing of the Bond under the Indenture.
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10 All documents before this meeting, including the
11 Indenture and the Lease Agreement are subject to completion
12 in conformity with this Bond Resolution. The Mayor and the
13 Clerk, and each of them is hereby authorized to execute and
14 deliver said Indenture and Lease Agreement in substantially
15 the form of said documents before this Common Council, on
16 behalf of the City, with such changes therein as such officials
17 with the advise of counsel may determine, as conclusively
18 evidenced by his execution thereof, to be advisable and in
the best interests of the City and in conformance with the
Bond Resolution.

1 SECTION 10. Prior Proceedings. All action taken
2 by the Commission in connection with the Project is, to the
3 extent not inconsistent with the Bond Resolution, ratified
4 and confirmed and incorporated herein.
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6 SECTION 11. Recognition of New Legislation. It
7 is hereby recognized that pursuant to Senate Enrolled Act
8 No. 325, the Act became effective upon its approval by the
9 Governor on April 23, 1973, and that pursuant to Section 3
10 of said Act No. 325, the Commission created by Special Ordinance
11 No. S-19-72 of the City continues with the powers and duties
12 of a "development commission" under the Act.
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14 SECTION 12. Effective Date. This Bond Resolution
15 shall be in full force and effect immediately upon its adoption
16 by the Common Council and approval by the Mayor.
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19 Councilman
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Read the first time in full and on motion by V. Schmidt seconded by

Hinga, and duly adopted, read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the day of _____, 1976, at _____ o'clock P.M., E.S.T.

DATE: 10-12-76

Charles W. Clutman

CITY CLERK

Read the third time in full and on motion by V. Schmidt, seconded by Hinga, and duly adopted, placed on its passage.

PASSED by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	<u>7</u>	<u>1</u>		<u>1</u>	
BURNS	<u>✓</u>				
HINGA	<u>✓</u>				
HUNTER		<u>✓</u>			
MOSES	<u>✓</u>				
NUCKOLS					<u>A</u>
SCHMIDT, D.	<u>✓</u>				
SCHIMDT, V.	<u>✓</u>				
STIER	<u>✓</u>				
TALARICO	<u>✓</u>				

DATE: 10-26-76

Charles W. Clutman

CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana,
as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION)

ORDINANCE (RESOLUTION) No Q-82-76 on the 26th day of Oct., 1976.
ATTEST: (SEAL)

Charles W. Clutman

CITY CLERK

James S. Steier

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27th
day of Oct., 1976, at the hour of 11:00 o'clock A. M., E.S.T.

Charles W. Clutman

CITY CLERK

Approved and signed by me this 27th day of October, 1976,
at the hour of 6:00 o'clock M. E.S.T.

Robert Armstrong

MAYOR

Bill No. R-76-10-05

REPORT OF THE COMMITTEE ON FINANCE

We, your Committee on Finance to whom was referred an Ordinance authorizing the issuance and sale of \$2,900,000 Economic Development Revenue Bonds (Hanover Columbus, Inc. (K-Mart Project) of the City of Fort Wayne, Indiana, for the purpose of defraying the cost of acquiring facilities, authorizing the execution of the necessary instruments, providing for the pledge of revenues for the payment of said bonds, authorizing a mortgage and indenture of trust appropriate for the protection and disposition of such revenues, and authorizing the sale of said bonds.

have had said Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance No PASS.

Vivian G. Schmidt - Chairman

William T. Hinga - Vice-Chairman

Winfield C. Moses, Jr.

John Nuckles

Samuel J. Talarico

Vivian G. Schmidt
William T. Hinga
W.C. Moses Jr.

10-26-76 CONCURRED IN
DATE CHARLES W. WESTERMAN, CITY CLERK

DIGEST SHEET
Resolution Authorizing the City of Fort Wayne to Issue Its
"Economic Development First Mortgage Revenue Bonds"
TITLE OF ORDINANCE (Hanover Columbus, Inc. K-Mart Project)

DEPARTMENT REQUESTING ORDINANCE Economic Development Commission

OJ-76-10-05

SYNOPSIS OF ORDINANCE Resolution will authorize City of Fort Wayne
to issue its Economic Development First Mortgage Revenue Bonds
(Hanover Columbus, Inc. K-Mart Project) in the amount of \$2,900,000
for the purpose of procuring funds to pay the costs of acquisition,
construction, and equipping of economic development facilities
and for lease of same to Hanover Columbus, Inc. K-Mart Project.

EFFECT OF PASSAGE Will authorize financing of economic development
facilities.

EFFECT OF NON-PASSAGE Economic development facilities will not be
financed.

MONEY INVOLVED (Direct Costs, Expenditures, Savings)

No costs to or expenditures by the City of Fort Wayne.

ASSIGNED TO COMMITTEE

Finance